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Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations

Question of East Timor

Note verbale dated 2 June 1999 from the Chargé d'affaires a.i. of the Permanent Mission of Portugal to the United Nations addressed to the Secretary-General

The Chargé d'affaires a.i. of the Permanent Mission of Portugal to the United Nations presents his compliments to the Secretary-General and has the honour to call his attention to the information provided by the Mission in its note verbale of 2 June 1998 (A/53/135), as required by Article 73*e* of the Charter of the United Nations, the terms of which remain valid.

Indonesia's illegal occupation of East Timor continues to deprive the Government of Portugal from de facto exercising its responsibilities regarding the administration of the Non-Self-Governing Territory of East Timor. Therefore, Portugal cannot provide the information required by Article 73 *e* of the Charter. However, the Government of Portugal would like to draw your attention to the following information.

I. The United Nations-sponsored talks

The New York Agreements of 5 May 1999 (A/53/951–S/1999/513, annexes I–III) meet Portugal's main objectives regarding the problem of East Timor, namely, the recognition of the right to self-determination of the East Timorese and the definition of a United Nations mandate to carry out a fair and free popular consultation and to ensure a peaceful transition process in East Timor.

Since 1983, Portugal and Indonesia, through the good offices of the Secretary-General, have been engaged in talks aimed at achieving a just, comprehensive and internationally acceptable solution to this problem. These efforts have culminated in the signature of an overall Agreement, which entrusts the Secretary-General with organizing and conducting a popular consultation for the purpose of ascertaining whether the East Timorese people

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accept or reject a constitutional framework for special autonomy for East Timor within Indonesia, which is appended to the Agreement.

The Agreement also requests the Secretary-General to establish immediately a United Nations mission in East Timor for the purpose of conducting the consultation, which shall be carried out through a direct and universal ballot to the East Timorese, both inside and outside East Timor. It is also foreseen that the United Nations shall maintain an adequate presence in East Timor during the interim period between the conclusion of the popular consultation and the start of the implementation of either option.

Two supplementary agreements were also signed, on the modalities for the popular consultation and on security arrangements, by which the parties agreed that a secure environment, devoid of violence or other forms of intimidation, is a prerequisite for the holding of a free and fair popular consultation and that the appropriate Indonesian authorities have the responsibility to ensure such an environment and to maintain law and order in the Territory. The United Nations shall ascertain whether the necessary security situation exists for the peaceful implementation of the consultation process.

Portugal will respect whatever option is decided upon by the East Timorese through a democratic consultation process. An interdepartmental working group has been established under the coordination of the Secretary of State for Foreign Affairs and Cooperation to define Portugal's participation in providing assistance during the transitional period under both scenarios — autonomy and independence.

But the United Nations will continue to play the leading role in the endeavour to establish democratic government in East Timor. During the transitional period, the United Nations should focus on institution- and capacity-building and on promoting a peaceful and secure environment, namely, by assisting in the establishment and training of an East Timorese police force.

Security Council resolution 1236 (1999) of 7 May 1999 confirms the United Nations mandate as set out by the Agreements and requests the Secretary-General to keep the Council informed on the implementation of the Agreements and the aforementioned resolution.

An appropriate framework has thus been established to achieve a fair and peaceful settlement. However, the situation in East Timor continues to be a cause of serious concern. Although this has been acknowledged by Minister Alatas, no effective measures have so far been taken to bring the armed militias under control or to hold accountable those responsible for violence. Those militias, which continue to act in an unrestrained manner, seek to bias the consultation through terror and intimidation.

II. The situation in East Timor

Various reliable and independent sources converged in denouncing arbitrary detentions, torture, disappearances and extrajudicial executions throughout 1998. These sources included international human rights organizations such as Amnesty International, Human Rights Watch, the East Timor Human Rights Centre, the East Timor Observatory, local organizations such as the Justice and Peace Commission and the Yayasan Hak Foundation, as well as government sources, including the conclusions of the European Union (EU) Troika visit to East Timor in June 1998 and the United States State Department's report on human rights.

While noting some signs of greater political freedom in East Timor, these sources reported that East Timorese continued to be persecuted, arbitrarily arrested or routinely

harassed for the peaceful expression of their convictions or because they were suspected of supporting the armed resistance.

In June 1998, during the first visit by EU ambassadors to East Timor, the envoys witnessed pro-referendum and pro-independence peaceful mass demonstrations. In Dili and in other urban centres, tens of thousand of demonstrators chose to take to the streets to express their aspirations, calling for independence and for the release of Xanana Gusmão. In Dili, the police showed some restraint with demonstrators and no incidents occurred but, in Baucau, on 29 June, a demonstrator was shot dead and six were wounded.

In the conclusions published after the visit, the EU ambassadors declared that it was their impression that there would be no lasting solution in East Timor without a firm commitment to some form of direct consultation of the will of the people. They also added that there was an urgent need to promote immediate dialogue involving East Timorese leaders and for the implementation of confidence-building measures. Possible measures suggested by the EU Troika included the release of Xanana Gusmão and other East Timorese political prisoners, as well as a visible and immediate reduction of Indonesia's military presence in East Timor, accompanied by the disbanding and disarmament of local paramilitary organizations.

Although Indonesia publicly announced its intention to expedite the release of East Timorese political prisoners, implementation of this commitment has been disappointing. In fact, some 25 East Timorese prisoners were selectively released, but many more, including Xanana Gusmão, are still imprisoned. The release of political prisoners, allowing them to participate freely in the political campaign prior to the ballot, is a condition for the organization of a democratic consultation process.

Indonesia has repeatedly declared that Xanana Gusmão would be released in the context of a global solution to the problem of East Timor. There are no more reasons for any delay.

Xanana Gusmão is a member of the Peace and Stability Commission established in Dili on 21 April 1999.

The Commission has been given a considerable role by the New York Agreements regarding the elaboration of a code of conduct, by which all parties shall abide, and the process of disarmament. However it has not been able to become operational, as some of its members remain imprisoned and others are not able to attend meetings for security reasons.

Several attempts to revive this issue have been made by Xanana Gusmão, with the support of the bishops of Dili and Baucau. Various foreign Governments have also expressed their willingness to support a reconciliation meeting with a view to discussing the aforementioned code of conduct. Portugal welcomes the announcement by the Government of Indonesia that it has agreed that the first meeting would be held in Jakarta in mid-June and that Indonesia would ensure the necessary security conditions for the participation of the East Timorese in exile. This is an important step in breaking the cycle of violence in East Timor.

Indonesia should also comply with its commitment to reduce its military presence in the Territory. In spite of the highly publicized withdrawal of some 1,000 troops, documents leaked from the Indonesian armed forces (ABRI) have confirmed that there has not been an overall reduction in troops and there may even have been an increase. According to ABRI documents leaked to the press, the number of troops may be as high as 20,000. This undoubtedly contributes strongly to the tension prevailing in the Territory.

According to the United States State Department, during 1998 military units and civilian paramilitary forces continued to regularly detain civilians for interrogation; most were held in extralegal military detention centres, often with no notification of relatives, were mistreated for several days and were then released. Family members and human rights monitoring organizations often encountered difficulties in identifying and visiting those detained in such facilities. Following the fall of the Soeharto Government in May, there were indications that security forces in East Timor were being more careful in their handling of persons in their custody, and local human rights monitoring organizations reported that complaints of serious abuses had decreased. However, in November and December abuse of the civilian population by security forces during operations in the Alas and Bobonaro areas following attacks on security personnel was widespread.

On 13 November 1998, several soldiers entered the church in Alas and opened fire. The priest and a Sunday school teacher were wounded, but managed to escape into the woods. On the same day, the traditional leader (*liurai*) of the village of Taitudak was killed by Indonesian soldiers. These actions were apparently in retaliation for the killing of three Indonesian soldiers in a clash with the armed resistance on 9 November at a military post in Mae. But according to some sources they were also part of a larger military operation, which led to the detention of up to 30 East Timorese and the death of an undetermined number of others. Several houses were burned, personal property was destroyed and many villagers fled to the surrounding areas, went into hiding for fear of persecution or took refuge in churches and schools.

The internal displacement of thousands of people has since become one of the most striking features of the incidents in East Timor. Violence and intimidation by civilian militias and paramilitary groups have led people to flee their villages in search for safety. It has also made it harder for humanitarian organizations and for the church to provide relief assistance. Diplomats who have visited East Timor, including the head of the Portuguese Interests Section in Jakarta, have confirmed the difficult conditions these people are living in.

In East Timor, there is a cycle of almost complete impunity for the perpetrators of these violations, as allegations are generally not investigated by the Indonesian authorities and perpetrators are not brought to justice. This type of impunity has been particularly blunt where it concerns the violence caused by armed militias, whose attacks on the defenceless civilian population have occurred with virtually no interference by the Indonesian security forces.

Leaders of these groups have gone so far as to issue threats against officials of foreign Governments, journalists and non-governmental organizations operating in East Timor. However, no legal action has been taken against them. Brining these militias under strict control is a prerequisite for the establishment of a secure environment for the popular consultation, scheduled for 8 August.

On 4 April 1999, following a confrontation between the armed militia group Besi Merah Puti and pro-independence youths in the village of Date, around 3 kilometres from Liquiça, around 2,000 people had taken refuge in the Liquiça church. On 6 April members of the police mobile brigade from Dili gathered around the church claiming to be there to protect the parish priest and those seeking refuge. However, at around 1 p.m. the members of Brimob began firing tear gas canisters into the church grounds and firing shots into the air. As people fled the compound to escape the tear gas they were attacked by members of the Besi Merah Puti, who were armed with automatic rifles, machetes and other sharp weapons.

The number of people killed remains unclear. Estimates by local human rights groups vary from 30 to 57 people. Bishop Belo, who travelled to Liquiça with the East Timor military commander, confirmed the seriousness of the incident.

Human rights organizations working in the area, including the Dili-based Hak Foundation, were threatened by anti-independence groups. The International Committee of the Red Cross, which attempted to visit the town, had to leave on two occasions because of threats to its security.

The European Union issued a statement strongly condemning these acts of violence and urging the Indonesian authorities to immediately intervene and stop such actions by militias by disarming them. The Union also urged the Indonesian authorities to hold accountable those responsible for such killings and to do its utmost to preserve peace in East Timor and to pave the way for a non-violent transition process.

On 17 April, several pro-integration militia groups spread throughout Dili and committed a series of violent acts against civilians. They attacked and burned down several houses, including the houses of Leandro Isaac and Manuel Carrascalão (both members of the Conselho Nacional de Resistência Timorense). About 170 people had taken refuge in Carrascalão's house after the Liquiça incident. The militias blocked the street in front of the house and attacked it. Many of the refugees became victims in this attack, including the son of Manuel Carrascalão, who was killed. The militias also attacked the office of the local daily *Suara Timor Timur* (Voice of East Timor), destroying all the office facilities, alleging that the paper had always acted as a voice for the anti-integration forces. There are also reports of arrests and torture of civilians. The Indonesian security forces did nothing to prevent or to stop these attacks. The Irish Foreign Minister, David Andrews, who was visiting Dili on that occasion, was in a meeting with the military commander for East Timor when Mr. Carrascalão arrived to tell him his house was being attacked. Minister Andrews said that the military was aware of everything going on and did not do anything to intervene.

On the following day, the Government of Indonesia condemned these acts of violence. A senior aide to President Habibie told the press that they were Indonesia's responsibility, as Indonesian authorities were the only ones on the ground.

On 20 April the EU Presidency issued a statement on behalf of the European Union expressing its deep concern on the substantial escalation of violence in East Timor (S/1999/488). The statement referred in particular to the attacks carried out by pro-integration militias in Dili on 17 and 18 April, which resulted in the death of some 30 unarmed civilians and injuries of many more. The European Union expressed its particular concern that these acts of violence occurred within a short distance of the military command of the Indonesian armed forces stationed in East Timor and that those forces did not intervene in order to prevent or stop the incident.

The European Union expressed its deep concern that the Indonesian authorities were unable to prevent those attacks, resulting in the loss of innocent human lives. It again reiterated its position that it remains the obligation of the Indonesian Government to maintain and preserve security, stability and public order in East Timor, to disarm militias and to hold accountable those responsible for the killings. Furthermore, the European Union stressed that a United Nations presence in East Timor was urgently needed to help prevent further violence.

The Community of Portuguese-Speaking Countries (CPLP) (Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Portugal and São Tome and Principe) also expressed its concern at the deteriorating situation in East Timor because of the violence caused by

the armed militias. CPLP considered that the continuation of those kinds of actions would jeopardize the conditions for a free and orderly consultation of the East Timorese.

The attacks by the armed militias continued even after the signing of the New York Agreements. On 17 May 1999, women and children fled to the hills after militias attacked their neighbourhood, torching houses and firing guns. This led the United Nations spokesperson in East Timor to issue an official statement calling upon the Government of Indonesia to honour its pledge to stem violence in East Timor in advance of the popular consultation. The United Nations insisted that determined action must be taken by the appropriate Indonesian security authorities to curtail the activities of the armed militias.

Disturbing reports that people are being gathered at centres to undergo political indoctrination in view of the consultation and that public servants are being forced to sign a written statement in favour of autonomy have meanwhile been received.

III. International pressure

International pressure played a key role in the outcome of the United Nations-sponsored talks. Throughout 1998 and particularly during the past months, East Timor has received unprecedented international attention.

In December 1998, the Vienna European Council meeting encouraged the results of the negotiations between Portugal and Indonesia. The European Union expressed its hope that they would be followed by tangible progress on the ground, notably through a real and substantial reduction in the Indonesian military presence in East Timor, the release of Xanana Gusmão and other political prisoners and by the establishment of a permanent United Nations presence in the Territory. The European Council also expressed its view that a definitive solution to the East Timor question would not be possible without a free consultation to establish the real will of the East Timorese people.

On 19 February the EU Presidency issued a statement reiterating this position and welcoming the formal announcement by Minister Alatas of Indonesia's new policy towards East Timor at the ministerial meeting of 7 and 8 February (S/1999/223).

In particular, the European Union stressed the need for a free and comprehensive consultation by the United Nations of the East Timorese and expressed its willingness to support the organization of such a consultation.

The countries associated with the European Union (Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia) and the European Free Trade Association countries members of the European Economic Area (Iceland, Liechtenstein, Norway, San Marino and Switzerland) aligned themselves with that statement.

The United States of America also expressed its concern in the face of the Indonesian authorities' failure to safeguard civilians in East Timor and has called for the disarmament of the armed militias. It has also called for a dialogue between East Timorese leaders in order to reduce tensions.

On 7 May the European Union welcomed the signing of the New York Agreements, based on the right to self-determination (S/1999/547). The EU considered those Agreements to be a major breakthrough and underlined that, in this context, the immediate release of Xanana Gusmão would be an essential element towards the success of the consultation process.

Furthermore, the European Union considered that security in East Timor remained crucial for the holding of a free and fair ballot on 8 August 1999 and for an orderly and

peaceful transition in East Timor. It reiterated its view that it remained the obligation of the Indonesian Government and its security forces to uphold peace and to guarantee security for everybody in East Timor.

Other countries, including Australia, Brazil, Canada, Japan, New Zealand, Norway and the United Stztes have welcomed the agreement reached between Portugal and Indonesia and have pledged to support the United Nations Mission in East Timor and to work closely to support this process.

The Chargé d'affaires a.i. of the Permanent Mission of Portugal to the United Nations has the honour to request that the present note verbale be circulated as a document of the General Assembly under items 94 and 97 of the preliminary list.